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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/720,531
Inventor(s) : Gurusamy Manivannan, *et al.*
Filed : November 25, 2003
Art Unit : 1614
Examiner : Kevin E. Weddington
Docket No. : 00216-602002 / T-716A
Confirmation No. : 4397
Customer No. : 27752
Title : SHAVE GEL PRODUCTS

REPLY AFTER FINAL OFFICE ACTION UNDER 37 CFR §1.113

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

INTRODUCTORY REMARKS

In response to the Office Action of November 2, 2007, please reconsider this application in light of the following remarks.

Claims 1-2, 7, 10, 15-16, 18, and 23-37 are currently pending in the application. The pending claims stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent 3,772,203 (hereinafter referred to as "Gray") in view of U.S. Patent 3,541,581 (hereinafter referred to as "Monson").

The pending claims are directed to a shave gel product comprising a container having a first chamber and distinct second chamber. A complete shave gel composition is disposed within each of the first and second chambers. Gray does not teach or suggest a complete shave gel composition within separate container storage areas, and instead discloses storing the oxidizing agent, along with another single ingredient (a stabilizer for the oxidizing agent) separately from the base cosmetic formula (*see* the Examples). Gray

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at Column 2, lines 25-28, states that "It is preferred to store the oxidant separately from the other cosmetic or shaving cream ingredients and it is similarly preferred to store the sulfonic acid or sulfonate reductant with the other ingredients" (emphasis added). It is clear from this statement that the container storage area holding the oxidant does not constitute a complete shaving cream composition. And although the above statement employs the term "preferred," this is the only direction of Gray's disclosure since this explicit design choice is taught in each and every one of Gray's examples (*see* Examples 2-15). Accordingly, Gray teaches directly away from features recited in the pending claims.

The Examiner states the following:

[T]he prior art teaches all the claimed elements known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no changes in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention. *See* page 3 of the Office Action.

This statement from the Examiner appears to be one of the rationales (A. Combining Prior Art Elements According to Known Methods To Yield Predictable Results) provided within the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex, Inc.*, which was published in the Federal Register on October 10, 2007 (*see* Vol. 72, No. 195 at pages 57526-35). Applicants note that the discussion associated with this rationale explicitly includes the following KSR quote: "When the prior art teaches away from combining certain elements, discovery of successful means of combining them is more likely to be nonobvious" (*see* f.n. 49 on page 57529 of the Federal Register). Here, the pending claims include complete shave gel compositions within each of the separate storage chambers, while Gray teaches an incomplete shaving cream compositions (oxidizing agent with another single ingredient (a stabilizer for the oxidizing agent)) within at least one of its container storage areas. Gray accordingly teaches away from the claimed subject matter.

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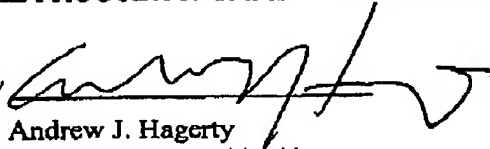
Notwithstanding the argument above, claims 7 and 35-37 are separately allowable over the applied references. These claims recite that the reducing agent "is selected from the group consisting of thiosulfate and sulfite compounds, compounds with a thiourea backbone, and mixtures thereof." Gray relies upon sulfinic acids and sulfinates exclusively, making use of the foaming sulfonates which are created when sulfinates are oxidized (see Column 1, lines 57-60). Thus, Gray is silent with respect to the particular reducing agents recited in claims 7 and 35-37. And since Monson fails to remedy the shortcomings of Gray, the subject matter of claims 7 and 35-37 are patentably distinct from the applied references. Applicants note that the Examiner did not respond to a similar patentability argument submitted in the previous response, and respectfully request consideration and acknowledgement of this argument in a future Patent Office correspondence.

In view of the foregoing remarks, reconsideration of this application and allowance of the pending claims are respectfully requested.

Respectfully Submitted,

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